

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Stephan Nicholas Holmes,

Case No. 23-CV-2971 (ECT/ECW)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

Centurion of Minnesota; MN DOC; State of MN; Joan Wolfe, DCO TCD; Kristen, Supervisor TCD; Emily Meligert, Supervisor TCD; Paul Schnell; Does A-E, Nurses Centurion; Promise Amairi, NP Centurion; James Amsterdam, Medical Director of MN DOC; and Thanh Weeks, NP Centurion,

Defendants.

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In an order dated September 28, 2023, this Court directed plaintiff Stephan Nicholas Holmes to pay an initial partial filing fee of at least \$62.67 within 21 days, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Dkt. No. 3 (citing 28 U.S.C. § 1915(b)). That deadline was later extended to November 27, 2023. *See* Dkt. No. 7.

The extended deadline has now passed, and Holmes still has not paid the initial partial filing fee required in this case. Accordingly, this Court now recommends, consistent with the warning previously given to Holmes, that this action be dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. *See Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir. 2011) (per curiam)

(affirming dismissal without prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee).

#### RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: December 5, 2023

s/Elizabeth Cowan Wright  
ELIZABETH COWAN WRIGHT  
United States Magistrate Judge

#### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).